

## ANALYSIS OF ORIGINAL BILL

Author: Leslie Analyst: Roger Lackey Bill Number: SB 1386

Related Bills: See Legislative History Telephone: 845-3627 Introduced Date: 01-07-98

Attorney: Doug Bramhall Sponsor:

SUBJECT: State Agencies/Information Gathering On Web Sites/Disclosure Requirements

### SUMMARY

This bill would require that every state agency that maintains or operates a Internet website that uses a device to collect personal information, usage patterns, or user movements shall disclose the existence and purpose of such a device on its Internet website.

### EFFECTIVE DATE

This bill would be effective January 1, 1999.

### PROGRAM HISTORY/BACKGROUND

In March of 1995, Governor Wilson issued an executive order requiring all state agencies to provide public information on the Internet. The California Government web site was established allowing agencies to comply with the executive order and provide agency information on the California Government web site without having to develop an independent web site of their own. The Franchise Tax Board (FTB) was the first department to comply with the order by providing general information and forms on the Internet. FTB has established its own web site to more easily customize data and gather statistics on information requests.

A "cookie" is a piece of data sent to a user's (client) browser from a requested Internet website. "Cookies" can be used to both store and retrieve information on the user side of the connection. The provider of the web site also can use "cookies" to retrieve information. For example, a "cookie" may contain a variety of information that can be used to evaluate a site, such as when the user last visited the site and what pages or applications the user accessed. If the user also chooses to sign onto a site (provide email address, favorite options, etc.), a "cookie" may also retain that data and take a user directly to the part of the site that the user has designated.

### DEPARTMENTS THAT MAY BE AFFECTED:

\_\_\_ STATE MANDATE

\_\_\_ GOVERNOR'S APPOINTMENT

Department Director Position:

\_\_\_ S \_\_\_ O  
\_\_\_ SA \_\_\_ OUA  
\_\_\_ N \_\_\_ NP  
\_\_\_ NA \_\_\_ NAR  
\_\_\_ X \_\_\_ PENDING

Agency Secretary Position:

\_\_\_ S \_\_\_ O  
\_\_\_ SA \_\_\_ OUA  
\_\_\_ N \_\_\_ NP  
\_\_\_ NA \_\_\_ NAR  
DEFER TO \_\_\_

### GOVERNOR'S OFFICE USE

Position Approved \_\_\_  
Position Disapproved \_\_\_  
Position Noted \_\_\_

Department Director

Gerald H. Goldberg

2/20/98

Agency Secretary

Date

By:

Date:

If a user has enabled "cookies" on his/her browser and clicks a link to an Internet website, the browser checks the address of the link against the "cookie" data base residing on its hard drive. If the browser has a "cookie" that matches the domain and path of the link, it will send the "cookie" to the Internet website along with the requested web page.

Previously, the FTB website notified users that they were being offered a cookie even though no data were transferred to their hard drive or back to the FTB website. That is, the "piece of data" was blank for "cookies" on the FTB Web Site. Users could verify this by checking the Cookie directory on their computer's hard drive and verifying that there were no cookies from FTB Web Site. The department disabled cookies on its website on December 30, 1997.

#### SPECIFIC FINDINGS

**State law** requires state agencies to use strict requirements and guidelines in the use of personal information. The Information Practices Act of 1977 (Civil Code Section 1798) and the California Public Records Act (Gov. Code beginning with Sec. 6250) provide measures to assure fair treatment of individuals who are the subjects of state agency records.

These acts place specific requirements on state agencies in the collection, use, maintenance and dissemination of information relating to individuals. With exceptions, individuals may review, obtain copies, request amendments and corrections, and dispute information pertaining to them in state records.

Civil remedies and penalties are provided for violations that adversely affect individuals who are the subjects of state agency records.

**This bill** would require that every state agency that maintains or operates a Internet website that uses a device to collect personal information, usage patterns, or user movements shall disclose the existence and purpose of such a device on its Internet website.

**This bill** would require a state agency to disclose in plain English the following on its website:

- The existence of the information-gathering device, identifier, or other data base application.
- The type of personal information that is being collected.
- The purpose for which the collected information is used.
- If applicable, the length of time that the information gathering device, identifier, or other data base application will exist in the user's hard drive.
- Notice to the user that he or she has the option of avoiding the collection of personal information when accessing the website.

**This bill** would provide that the term "personal information" includes, but is not limited to, the user's name, password, and electronic mail address.

**This bill** would provide that the term "user" means an individual who operates a computer, program, network, or related service for work or entertainment.

#### Implementation Considerations

This bill would allow the department to reactivate the "cookies" on the FTB web site using established statutory guidelines. "Cookies" could be used to provide the department with accurate information on user behavior to improve the usefulness of the FTB web site.

#### Technical Considerations

The Information Practices Act (IPA) provides strict limits and guidelines for the maintenance and dissemination of personal information. To ensure that this bill complies with the limits and guidelines established by the IPA, it is suggested that a reference to the IPA be included in the language of this bill.

#### FISCAL IMPACT

##### Departmental Costs

This bill would not significantly impact the department's costs.

##### Tax Revenue Estimate

This bill would not impact the state's income tax revenue.

#### BOARD POSITION

Pending.